IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

THURSDAY, THE 22ND FEBRUARY 2007 / 3RD PHALGUNA 1928

CRL.A.No. 1181 of 2001()

STC.NO.9/2001 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, KALPETTA.

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APPELLANT: COMPLAINANT:

MUHAMMED USMAN SHAIK,
S/O.UMMER KUTTY, AGED 44 YEARS,
RESIDING AT WHITE HOUSE,
KALPATTA AMSOM DESOM, VYTHIRI TALUK,
WAYANAD DISTRICT.

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENTS: ACCUSED AND THE STATE:

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1. ALI KORAN KUNNAN, S/O.MOIDU HAJI,
KOROM, THONDERNADU, P.O.
VELLAMUNDA POLICE STATION LIMIT
WAYANAD DISTRICT.

2. STATE OF KERALA, REP. BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, KOCHI -18.

BY PUBLIC PROSECUTOR SRI.THOMAS JOHN AMBOOKEN.

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 22/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M. JAMES, J.

Criminal Appeal No. 1181 of 2001

Dated this the 22nd February, 2007.

J U D G M E N T

The complainant in S.T.No.9/2001, on the file of the Judicial First Class Magistrate Court, Kalpetta, is the appellant. The complainant preferred a complainant before the Chief Judicial Magistrate Court, Kalpetta, which was taken on file as C.C.No.317/1999. However, on administrative reasons, the same had been made over to the Judicial First Class Magistrate Court, Kalpetta, with a direction to the parties to appear before that court on 24.9.2001. On receipt of the records from the Chief Judicial Magistrate Court, Kalpetta, the same had been re-numbered as S.T.C.No.9/2001, and the case was posted to 24.9.2001, as directed by the Chief Judicial Magistrate.

2. The complaint of the complainant is that no notice was given to him, regarding the making over of the case to the Judicial First Class Magistrate Court, Kalpetta. Therefore, he could not be present. So was the case of the counsel, as he had no notice. The

complainant, therefore, came up before this Court challenging the said order of dismissal passed on that date, by the Judicial First Class Magistrate Court, Kalpetta.

3. Though notice was given to the first respondent, accused, there is no appearance. Hence, I heard the learned counsel appearing for the appellant. The facts stated above had been reiterated by the counsel. In the above facts situation, I am of the opinion that an opportunity be given to the parties to raise their contentions before the court below.

4. Hence, I set aside the impugned order, dated 24.9.2001, and restore S.T.C.No.9/2001 to the file of the Judicial First Class Magistrate Court, Kalpetta.

5. The complainant shall appear before the court below on 23.3.2007.

6. There being no representation from the first respondent, accused, the learned Magistrate shall take coercive steps for securing his presence, as per the law.

7. This case is of the year 1999, having filed before the Chief Judicial Magistrate Court, Kalpetta. The same is pending even now for various reasons. At least, this appeal ought to have been disposed of earlier, giving a speedy remedy to the complainant, who appeared before the court below, as well as before this Court, with this appeal, having filed in the year 2001.

8. In the circumstances, I direct the learned Magistrate to dispose of the same, at the earliest, and in any case, within three months from the date of production/appearance of the first respondent, accused.

Criminal Appeal is allowed as above.

J.M. JAMES,
JUDGE

nj.

J.M. JAMES, J.

Criminal Appeal No. 1181 of 2001

J U D G M E N T

Dated: 22nd February, 2007.